

*Sandra*

U.S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
FILED

JUN 25 2003

ROBERT H. STANLEY, CLERK  
BY *SM* DEPUTY

1 **Brian R. Reiss**, CA State Bar #89879  
2 Attorney at Law  
3 3700 Campus Drive, Suite 204  
4 Newport Beach, CA 92660  
5 949-852-0418, 949-852-0493 fax

6 Attorney for Plaintiff:  
7 Raymond Sellek Jr.

**CV03 - 1229 S**

JUDGE HICKS  
MAGISTRATE JUDGE PAYNE

8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

FILED  
SEP - 9 PM 3:36  
U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.

11 *ML*  
12 Raymond Sellek Jr., ) Case No. SA02-842AHS(ANx)  
13 Plaintiff, )  
14 vs. ) COMPLAINT FOR:  
15 ) (1) COPYRIGHT  
16 PROGRESSIVE STAMPING AND ) INFRINGEMENT  
17 PLATING, HARDWARE ) (2) FRAUD  
18 RESOURCES, L.L.C., and ) (3) INJUNCTIVE RELIEF  
19 Does 1-10, Inclusively. ) (4) PUNITIVE DAMAGES  
20 ) DEMAND FOR JURY TRIAL

21 COMPLAINT

22 Plaintiff Raymond Sellek Jr., dba Precision  
23 Woodcrafters, avers as follows:

24 1. Plaintiff Raymond Sellek Jr., dba Precision  
25 Woodcrafters, is a sole proprietorship doing business under  
26 the laws of the State of California, with his principal place  
27 of business at 1040 B Melrose Ave., Placentia, CA 92870,  
28 (hereinafter "Plaintiff").

2. Upon information and belief, Defendant Hardware

(1)

ENTER ON ICMS

SEP 10 2002

*W*

1 Resources, L.L.C., is a subsidiary of Defendant Progressive  
2 Stamping and Plating, Inc., a corporation whose state of  
3 incorporation is unknown - Hardware Resources principal  
4 place of business is 4319 Marlena Street, Bossier City,  
5 Louisiana 71111, and it also has a location in Riverside,  
6 California 91761 at 820 South Rockefeller. Does 1-10 are the  
7 agents, employees, or authorized representatives of said  
8 Defendants. They are hereinafter referred to collectively as  
9 "Defendants".  
10

#### 11 JURISDICTION AND VENUE

12 3. This action, as hereinafter more fully appears,  
13 arises under the Federal Copyright Act (17 U.S.C. 101 et  
14 seq.), and is for Federal copyright infringement and fraud.  
15 Jurisdiction is based upon 28 U.S.C. 1331 and 1338(a).  
16

17 4. Venue is proper under 28 U.S.C. 1391(b) and (c),  
18 as, upon information and belief, the claims arose and  
19 Defendants do business in this judicial district and  
20 Plaintiff has a principal place of business in California.

#### 21 BACKGROUND OF THE CONTROVERSY

22 5. Since 1970, Plaintiff has been and is currently  
23 in the business of manufacturing and marketing a wide variety  
24 of architectural woodcarvings. In connection therewith,  
25 Plaintiff has created a variety of original woodcarving  
26 designs, and continues to add to its line of original  
27 designs. Plaintiff does business as Precision Woodcrafters,  
28

1 a sole proprietorship.

2  
3 6. Due to the substantial amount of resources  
4 expended in the creation, advertising, and promotion of  
5 Plaintiff's original woodcarvings, Plaintiff has obtained  
6 copyright registrations, and is currently applying for  
7 copyright registrations, for many of its original wood  
8 sculptures and designs.

9 7. Plaintiff has obtained the following copyright  
10 registrations, which are the subject of this lawsuit. True  
11 and correct copies of these copyright registrations are  
12 attached hereto collectively as Exhibit 1, along with copies  
13 of the corresponding submitted specimens:

14 A. On February 15, 2001, Plaintiff  
15 obtained Copyright Registration No. VA 1-089-226 for a work  
16 entitled "Grape Corbel Carved Collection".

17 B. On February 15, 2001, Plaintiff  
18 obtained Copyright Registration No. VA 1-089-228 for a work  
19 entitled "Traditional Corbel Carved Collection".

20 C. On February 15, 2001, Plaintiff  
21 obtained Copyright Registration No. VA 1-081-411 for a work  
22 entitled "Acanthus Leaf Corbel Carved Collection".

23 D. The specific corbels were further  
24 protected from copyright infringement by having stamped upon  
25 them the symbols shown in Exhibit 1 - giving full notice to  
26 any purchaser that these designs were and are copyright  
27

28

1  
2 protected.

3 8. The aforementioned copyright registrations were  
4 comprised of material wholly original to the author and the  
5 works consist of copyrightable subject matter under the laws  
6 of the United States. In securing the aforementioned  
7 copyright registrations, Plaintiff complied in all respects  
8 with the Copyright Act of the United States, 17 U.S.C. 101 et  
9 seq. and all other laws governing copyright registrations in  
10 the aforementioned works. Since the initial registration  
11 dates of the aforementioned copyright registrations, any  
12 publications of such works by the Plaintiff, and all copies  
13 of the aforementioned works made by the Plaintiff, were under  
14 Plaintiff's authority or license and have been created,  
15 published and displayed in conformity with the provision of  
16 the Copyright Act of the United States, 17 U.S.C. 101 et  
17 seq., and all other laws governing copyrights.

18 9. While subsequent to the dates of registration of  
19 the aforementioned copyrights, Defendant has marketed,  
20 advertised, and sold woodcarvings which are substantially  
21 similar to Plaintiff's copyrighted woodcarvings.

22 10. Plaintiff, upon becoming aware of Defendant's  
23 use of Plaintiff's copyrighted works, began a course of  
24 communication with representatives of the Defendant  
25 expressing Plaintiff's concerns and placing Defendant on  
26 formal notice of Plaintiff's copyright rights. A copy of  
27

28

1 this letter faxed to Defendant on 8/2/2002 is attached hereto  
2 as Exhibit 2.

3  
4 11. Defendant, in response to Exhibit 2, faxed back  
5 to Plaintiff a response on 8/3/2002, attached hereto as  
6 Exhibit 3. This response admits that "we have 9 items very  
7 similar to your works" and goes on to say that "we are not  
8 trying to produce a fine quality product such as yours,  
9 therefore our market is quite different." Defendants refused  
10 to acknowledge Plaintiff's copyright rights, and  
11 notwithstanding Plaintiff's notice and objections, and with  
12 full knowledge thereof, proceeded and continue to  
13 manufacture, including foreign manufacture, market, and sell  
14 Plaintiff's copyrighted designs.

15 12. On 8/8/2002, Defendants faxed to Plaintiff  
16 Exhibit 4, attached hereto. This communication included a  
17 copy of a complaint filed on 8/6/02 in the U.S. District  
18 Court for the Western District of Louisiana, Shreveport  
19 Division asking for Declaratory Judgment that the wooden  
20 corbels in question are not entitled to copyright protection.

21 13. Said complaint filed by Defendants falsely  
22 states that Plaintiff herein has "sufficient contacts with  
23 the State of Louisiana to warrant the exercise of general and  
24 specific personal jurisdiction by this Court." In fact,  
25 Plaintiff herein has no personal or business contacts with  
26 Louisiana, does not do business or have a location there, and  
27  
28

1 any sales of its products which might occur in Louisiana are  
2 made solely through completely independent vendors.

3  
4 14. Defendant, has a place of business in Riverside,  
5 California; the sale of the corbels by Plaintiff's vendor to  
6 Defendant took place in California (see Fraud allegations,  
7 *infra*); and Defendant's attempt to pre-empt jurisdiction by  
8 its filing in Louisiana is specious and improper.

9 15. Upon information and belief, the wood  
10 architectural carvings manufactured, marketed, and sold by  
11 Defendant infringe upon the Plaintiff's copyrights, all to  
12 Plaintiff's irreparable damage and in contravention of the  
13 laws of the United States.

14  
15 FRAUD ALLEGATIONS

16 16. Plaintiff, upon information and belief, alleges  
17 that Defendant, on or about 11/5/2001, purchased from one of  
18 Plaintiff's vendors (Pacific Columns) 9 corbels. Exhibit 5  
19 indicates that Defendant purchased one of each design, which  
20 is unusual in the industry.

21  
22 17. Plaintiff alleges that Defendant thereafter  
23 caused to be transported said corbels across state lines for  
24 the purpose of duplicating said copyrighted works, with the  
25 specific intent of violating the copyright laws of the United  
26 States.

27  
28

1  
2 FIRST CLAIM FOR RELIEF

3 (Federal Copyright Infringement)

4 18. This cause of action arises under the Federal  
5 Copyright Act (17 U.S.C. 101 et seq.), and is for Federal  
6 copyright infringement and to remedy said infringement of  
7 Plaintiff's original works of art as more fully set forth  
8 below.

9 19. Plaintiff repeats and realleges each and every  
10 allegation as set for in Paragraphs 1-18.

11 20. Upon information and belief, Defendant and/or  
12 employees or agents of Defendant, without authorization from  
13 Plaintiff, used or induced others to use one or more of  
14 Plaintiff's original works of art in the manufacture and sale  
15 of architectural woodcarvings. Such usage or inducement to  
16 use of artwork which is identical, substantially identical,  
17 or derivative of Plaintiff's original works of art is an  
18 infringement of Plaintiff's copyright registrations.

19 21. Upon information and belief, Defendant has,  
20 without authorization from Plaintiff, manufactured,  
21 advertised, contracted to manufacture in the United States  
22 and abroad, received, sold and continues to sell throughout  
23 the United States architectural woodcarvings not produced by  
24 or for Plaintiff which incorporate one of more of Plaintiff's  
25 original works of art, or artworks essentially identical to  
26 or derivative of the aforementioned works of art of  
27  
28

1 Plaintiff. Defendant's woodcarvings, or reproductions in  
2 other media, contain designs which are identical to or so  
3 substantially similar to Plaintiff's copyrighted works that  
4 such unauthorized sales by the Defendant constitute an  
5 infringement of the aforementioned copyrights owned by the  
6 Plaintiff.  
7

8 22. Upon information and belief, the aforementioned  
9 actions of the Defendant in infringing upon the copyrights  
10 owned by Plaintiff have been deliberate with the knowledge  
11 and against the interest of Plaintiff in such original works  
12 of art.

13 23. Upon information and belief, by the acts of  
14 copyright infringement herein complained of, Defendant has  
15 made profits in which it is not equitably or legally  
16 entitled.

17 24. By reason of the aforementioned acts of the  
18 Defendant, Plaintiff has suffered great detriment in a sum  
19 which cannot be ascertained at this time.  
20

21 25. Defendant threatens to, and unless restrained,  
22 will continue the acts complained of herein, all to  
23 Plaintiff's irreparable damage, and it will be extremely  
24 difficult to ascertain the amount of compensation which would  
25 afford Plaintiff adequate relief.  
26  
27  
28



1  
2 SECOND CLAIM FOR RELIEF

3 (Fraud)

4 26. Plaintiff incorporates by reference at this  
5 point all foregoing Paragraphs of its Complaint.

6 27. Upon information and belief Plaintiff alleges  
7 that all the acts complained of above were committed with the  
8 specific intent to violate Plaintiff's copyrights in said  
9 original works of art.

10 28. Plaintiff alleges that Defendant intended to  
11 usurp the right of Plaintiff at the time it bought the  
12 copyrighted materials from Plaintiff's vendor, and/or at the  
13 time it caused to be transported said copyrighted materials  
14 to a state other than California and/or when it caused the  
15 duplication and manufacture and sale of the copyrighted  
16 designs.

17 RELIEF REQUESTED

18 WHEREFORE, Plaintiff prays for judgment against  
19 Defendants, and each of them, as follows:

20 1. Issuance of a preliminary injunction and  
21 permanent injunction directing Defendant and each of its  
22 agents and/or representative, directly and indirectly, to be  
23 enjoined and restrained at first during the pendency of this  
24 action and thereafter perpetually:

25 (A) From committing any further acts of copyright  
26 infringement of Plaintiff's copyrighted designs.  
27  
28

1  
2 (B) From causing to be manufactured in this or any  
3 other country replicas in any medium of  
4 Plaintiff's copyrighted designs, and immediately  
5 canceling all contracts calling for such  
6 manufacture in this or any other country.

7 2. That Defendant be required to deliver up to  
8 Plaintiff for destruction any and all media, advertisements,  
9 brochures, and architectural woodcarvings, or any other  
10 products containing designs that infringe Plaintiff's  
11 copyrights, and to recall or discontinue all advertisements,  
12 including internet websites, or any other medium of  
13 advertisement, which contain said copyrighted designs.

14 3. That Defendant, within thirty (30) days after  
15 serving of judgment, with notice of entry upon it, be  
16 required to file with this Court an accounting of such  
17 profits as Defendant obtained from the sales of Plaintiff's  
18 copyrighted designs (if not already ordered by the court) and  
19 to serve upon Plaintiff, a written report, under oath,  
20 setting forth in detail, the manner in which Defendant has  
21 complied with Paragraphs 1 through 2, *supra*.

22 4. That Plaintiff be awarded damages consistent with  
23 the United States Copyright Act, 17 U.S.C. 501 et seq.

24 5. That Plaintiff be awarded increased damages and  
25 attorneys' fees in accordance with the United States  
26 Copyright Act, 17 U.S.C. 501 et seq.  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

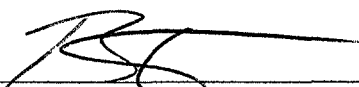
6. That the Court award reasonable attorneys' fees to Plaintiff.

7. That the Court award exemplary and/or punitive damages to Plaintiff for each instance of wrongdoing.

8. That Plaintiff have and recover the costs and disbursements of this civil action.

9. That Plaintiff have such other and further relief as the Count may deem just and proper.

Dated: September 9, 2002

  
\_\_\_\_\_  
Brian R. Reiss  
  
Attorney for Plaintiff  
Raymond Sellek Jr.

**UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF LOUISIANA**  
**SHREVEPORT DIVISION**

**NOTICE OF DOCUMENTS NOT FILED IN RECORD**

**CIVIL CASE # 5:03cv1229**

**RAYMOND SELLEK JR**

**VS.**

**PROGRESSIVE STAMPING & PLATING INC et al**

**ATTACHMENTS TO:**

**DOCUMENT #: 1**

**DESCRIPTION: Complaint**

**FILED BY: Plaintiff**

**FILE DATE: 06/25/03 (09/09/02 in USDC/CDCA)**

**HAVE BEEN PLACE IN AN ACCORDIAN FOLDER.**

**Sandra J. Dean**  
**DEPUTY CLERK**